

REMARKS

Applicant acknowledges the affirms the provisional election of the claims of Group III (claims 8-10).

Claims 1-17 were in prosecution. Claims 1-7 and 11-17 have been cancelled by the above amendment. Claim 8 was amended and new Claims 18-22 were added. Claims 8-10 and 18-22 remain in the case.

In the Office Action the Examiner rejected claims 8-10 under 35 USC §112, first paragraph for making a claim not enabled by the Specification. The Examiner presents a detailed case concerning the unpredictability of the medical arts and also shows that many flavonoids have contradictory results in biological systems such as effects on aldose reductase. Further, the Examiner points to the statement in the specification as to "It is believed that the *Brickellia* . . ." (Page 21, line 7). Applicant respectfully contends that this remark is taken out of context. In the previous paragraph a brief summary of the chemical analysis was given. Those of skill in the art will recognize that polar flavonoids with the listed retention are, in fact, those listed in the next paragraph. The term "believed" was used because intensive confirmatory chemical analysis was not undertaken. Therefore, there remained a small possibility that some as yet undiscovered flavonoid was included in that group. However, the Examiner will recognize that GC-MS determinations are generally quite accurate. Preliminary experiments alluded to but not presented showed antidiabetic activity for these flavonoids. The art cited by the Examiner shows that quercetin was independently found to have this activity. The discussions earlier in the Specification concerning ion channel interactions also support these and not other flavonoids as having activity. Finally, the aqueous *Brickellia* extract showed dramatic effects that Applicant believes are due to a

synergetic interaction between luteolin and these other flavonoids which also show properties to interact with ion channels.

Applicant has not merely given a laundry list of random flavonoids. Rather he has claimed those only flavonoids that were detected in *Brickellia* which have structures required for ion channel interaction and which showed activity in preliminary experiments. It is true that the presented data are drawn to luteolin because that compound appeared the most promising and was predicted to have maximum ion channel interactions. However, the *Brickellia* results strongly suggest a positive interaction between luteolin and the additional listed flavonoids. On this basis Applicant respectfully contends that the specification is enabling for this limited group of flavonoids. The Examiner is respectfully requested to withdraw the rejections under 35 U.S.C. 112, first paragraph.

The Examiner also made claim rejections under 35 U.S.C. 102(b) based on the work of Ammar et al. (1988). Claim 8 has been amended to remove quercetin. Therefore, Applicant respectfully requests that the rejection under 35 U.S.C. 102(b) be withdrawn. A new claim (18) has been presented directed principally to luteolin. Applicant believes that this claim should be allowable and is free of any potential enablement problems

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance. Reexamination and reconsideration of the application, as amended, are requested.

If for any reason the Examiner still finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles telephone number (310) 734-5200 to discuss the steps necessary for placing the application in condition for allowance.

You are hereby authorized to charge any fees due and refund any surplus fees to our Deposit Account No. 50-2567.

Respectfully submitted,

REED SMITH CROSBY HEAFEY

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